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Agenda item 3

ORGANIZATION OF THE WORK OF THE SESSION

Letter dated 21 March 1997 from the Permanent Representative of Colombia to the United Nations Office at Geneva addressed to the Chairman of the Commission on Human Rights

I have the honour to transmit to you, in your capacity as Chairman of the fifty-third session of the Commission on Human Rights, a memorandum on the action being taken by the Government of Colombia for the establishment of an Office of the United Nations High Commissioner for Human Rights in Santafé de Bogotá.

I request you kindly to distribute this memorandum as a document in Spanish and in English.

(Signed) GUSTAVO CASTRO GUERRERO
Ambassador

GE.97-11285 (E)

Annex

ACTION BY THE COLOMBIAN GOVERNMENT FOR THE ESTABLISHMNENT OF AN OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS

1. On 7 August 1994, Ernesto Samper Pizano assumed his duties as President of the Republic of Colombia. One month later, on the occasion of the human rights national day's celebration, the Head of State displayed before the country his policies on human rights, headed by the following assertion: "the National Government has full clarity on the fact that the human rights problem is not a question of image but of realities. We, Colombians, have to reduce -until extirpated- violence, political violence and human rights violations.
As long as we do not work with determination and earnestness in this direction, and will not obtain tangible success, we shall not be able to fulfil the commitment we have with ourselves as citizens of a democratic, modern and civilised nation" (Ernesto Samper Pizano. "Human Rights. A Policy for Life". 9 September 1994).

2. In the aforementioned document, the government established guidelines for the relations with the human rights international community, in the following terms: "in spite of difficult circumstances faced by the country in terms of violence and public order, we are going to assume the challenge to be capable to show ourselves before the international community as a country restlessly working for the respect of the human rights and international humanitarian right within its boundaries, and not afraid to be exposed to the scrutiny of the inter-governmental agencies and international non-governmental organisations defending human rights and seeking development of the international ruling system for the mentioned issues" (Ernesto Samper Pizano. "Human Rights. A Policy for Life". 9 September 1994).

3. In furtherance of these premises, during an interview held in Bogota in December 1994, the Colombian President requested the United Nations High Commissioner to establish an Office in Colombia. The same offer was made to Amnesty International, who did not accept for having different operation mechanisms.

4. While extending both invitations (paragraph 3), the Colombian Government, acted motivated by the principles of aperture and transparency expressed in its human rights policy (paragraph 2) and by the need to obtain from the international community -through a permanent presence- a more complete and objective vision of the complex Colombian reality, so that co-operation may give an adequate response to the situation.

5. Following the invitation of the Colombian Government, the United Nations High Commissioner for Human rights sent a mission to Colombia in September 1995, in order to explore together with the authorities and human rights non-governmental organisations, the viability and possible functions of an Office of his own in Colombia.

6. In March 1996, Colombian governmental delegates met in Geneva with the High Commissioner, who asserted his willingness to advance towards the establishment of the Office.

7. Through a letter dated 2 April 1996, the President of Colombia insisted upon his proposal to the High Commissioner.

8. During the 52d Session of the Commission on Human Rights (March, April 1996), the Colombian delegation established a constructive dialogue with the European and American Missions which were utmost concerned with the Colombian situation, to the purposes of discussing the pertinence and importance of the High Commissioner's Office. Likewise, consultations with national and international Human Rights NGOs, present in Geneva, and which had great interest that the Commission dealt with the Colombian case.

9. During such consultations, it was agreed to ask the Chairman of the Commission to request -through a declaration of its own- the High Commissioner the establishment of the Office in Colombia.

10. On 23 April 1996, in development of agenda item 3 (Organisation of the work), the Chairman of the Commission on Human rights read his Declaration which in its operative part requests the High Commissioner that, taking the initiative of the Government of Colombia into consideration and after finding adequate financing resources, proceed to establish, as soon a possible, a Permanent Office in order to assist the Colombian authorities in the development of their policies and programmes for the protection of human rights, to observe human rights violations in the country and report to the High Commissioner through analytical reports. He also requests the High Commissioner to present a report to the Commission during its 53d session, on the establishment of the Office and activities carried out in fulfilment of its mandate.

11. On 29 April 1996, Mr. Georg Mautner-Markhof, United Nations Special Procedures Chief of the Centre for Human Rights sent a "draft project of agreement related to the establishment of the Office in Bogota".

12. During May, June and July 1996, the Colombian Ministry for Foreign Affairs and the Presidential Human Rights Office reviewed the draft project and formulated some observations and alternative proposals; they sent it to different Presidential Ministers and Counsellors for revision and comments; they elaborated a draft proposal for the Agreement relating to the establishment of the Office whose text was discussed with the Colombian

President and the Ministers of the Interior, Defence and Justice. The draft with the governmental modifications was sent to the United Nations High Commissioner for Human Rights. Furthermore, a meeting with representatives of human rights non-governmental organisations was held in presence of the Minister of Foreign Affairs, where their views and reactions to the proposed text were discussed.

13. Between 18 and 21 August 1996, a Colombian governmental delegation arrived in Geneva in order to negotiate the Agreement with the High Commissioner.
During an intense series of meetings, the two proposed texts were taken, subjects of divergence were reviewed and consensus formulations were looked for. During negotiations, the International Committee of the Red Cross (ICRC) was consulted on various occasions on the allusions made in the draft to the work of the Office regarding the promotion of the International Humanitarian Law, so as to fully respect the mandate of the ICRC.

14. The Colombian governmental delegation and the High Commissioner advisors reached agreements on the Convention's structural items among which the following should be stressed out: Office's mandate, objective and general criteria for its activity as well as Office's function, composition and duration of the Agreement.

15. By decision of the High Commissioner, aspects of the agreement relating to the Office member status, privileges and immunities were sent by him to the United Nation's Legal Office in New York.

16. During the session of the United Nation's General Assembly, the Colombian President requested the United Nations Secretary General to speed up the answer to the consultation of the High Commissioner on the Agreement.

17. With the same purpose, on 9 October 1996 the Vice-minister for Foreign Affairs met with the United Nations legal Adviser in New York.

18. On 17 October 1996, the United Nations Legal office in New York sent its observations to the Colombian Government, which not only referred to the object of consultations but also to structural aspects of the Agreement already negotiated in Geneva.

19. New observations obliged to the reopening of the negotiation, which took place per written and telephonic ways between the Colombian government, the High Commissioner in Geneva and the Legal Office in New York, as described in the following paragraphs:

20. On 5 November 1996, the Colombian Government wrote to the High Commissioner and to the Legal Office in New York to respond to the latter's observations.

21. On 12 November, the Ministry for Foreign Affairs received a new communication from the United Nations Legal Office which was answered by the Government three days later (15 November 1996).

22. On 26 November, the Colombian Ministry for Foreign Affairs received a letter from the High Commissioner enclosing a new draft of the Convention including negotiated items so far, but some of them contained new variations. The Government replied this proposal on the same day it had been received.

23. Between 27 and 29 November 1996, during long telephonic working hours the Colombian Government and High Commissioner negotiating teams reached and agreement on the full text.

24. On 29 November 1996, the Agreement was signed in Geneva by H.E. Mrs. Maria Emma MEJIA VELEZ and Mr. Jose AYALA LASSO, High Commissioner for Human Rights.

25. the Colombian Government was committed to pay the rent of the facilities destined to the Office's functioning in Bogota, on previous joint selection with the High Commissioner.

26. In January 1997, the Colombian Government informed the High Commissioner that it had pre-selected some facilities and requested a delegation in order to jointly chose the most adequate.

27. Mr. AYALA LASSO sent two delegates to the aforementioned effects between 8 and 15 February last. As a result, three options were agreed within a certain priority order.

28. On such occasion, the High Commissioner delegates requested that the Government assume facilities adjustment costs. The Government accepted the request and immediately initiated legal handling to obtain resources and bestow the contract to a private enterprise.

29. At the same time, the Colombian Ministry for Foreign Affairs carried out proceedings with the rental agencies and succeeded in contracting facilities pointed by the High Commissioner delegates as first priority. Facilities are at the disposal of the Director of the Office and the adjustment work is in quick progress, so that the Office's establishment will not be delayed for this reason. According to information received from the Centre for Human Rights in Geneva, the Director of the Office will be initiating functions in Colombia next 6 April 1997.

30. Furthermore, the Colombian Government has being carrying out many activities for the information on the contents of the Agreement and also to create the best atmosphere and wider disposal to collaborate with the Office. Thus, meetings with the Ministers and Counsellors in charge of such

questions have been held as well as with High Military Authorities, with the Attorney General and the Prosecutor.

31. On 10 and 11 March last, the Ministry for Foreign Affairs and the Javeriana University held a seminar named "The Office of the United Nations High Commissioner for Human Rights. A Novel Proposal", attended by high state authorities and Non-governmental organisations, united by the same objective to debate most relevant aspects of the Agreement and propose mechanism towards the success of the Office's management.

32. The event included four subjects: Perspectives of the Office's Opening; Mandate; Advisory Functions; and Complaint Reception. Among speakers were the Ministers of Foreign Affairs, Defence, Interior and Justice; the Army Commander, A magistrate (former President) of the Constitutional Court; the Presidential Advisor for Human Rights; the Vice-Attorney General; the General Prosecutor; the Ombudsman; three directors of the most important human rights non-governmental organisations ("Colombian Jurists Commission; Solidarity Committee with the Political Prisoners; and the Latin-American Federation of Relatives of Disappeared Arrested People"); the President of a non-governmental organisation ('Pais Libre') devoted to promote fight against kidnapping; the President of a non-governmental organisation ('Comite Vida') dedicated to defend victims of guerrilla violence; a member of the National Conciliation Commission and an illustrated professor of the Institute of Political Studies and International Relations of the National University.

33. The seminar on the Office counted on wide dissemination among communication media and stressed the great expectations and commitment existent in Colombia toward the functioning of the Office. Of course, the event also pointed out possible difficulties in the Agreement's execution. The seminar resulted in a great number of proposals to facilitate the functioning of the Office and they will be submitted to Mrs. Almudena Masarraza, upon her arrival in Colombia.

34. Colombia requests the Commission on Human Rights and all member States of the United Nations Organisation their full support for this novel mechanism of co-operation to effectively contribute to improve the difficult human rights situation and international humanitarian law we are bearing, to a great extent as a consequence of the internal armed conflict started already forty years ago.
Colombia has fulfilled its part of the agreement and will continue expeditiously complying with it so as to try that the Office, in accordance with the agreed text, will be able to fully carry out its advisory and observation functions and will function as a management and inter-locution Centre with all sectors involved and interested in the Colombian human rights question.

Geneva, 19 March 1997

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